

1979 WL 42748 (S.C.A.G.)

Office of the Attorney General

State of South Carolina

January 11, 1979

*1 Honorable Patrick Bradley Harris
Member
House of Representatives
706 E. Mauldin Street
Anderson, South Carolina 29621

Dear Representative Harris:

You have inquired of the Attorney General as to whether or not the General Assembly can validly enact legislation which would suspend the operation of a previous enactment and, if so, whether or not the suspending legislation must specify the duration of such suspension. The law seems to be well established that the legislature can, by subsequent enactment, suspend the operation or implementation of an earlier one and that, apparently, the duration of such suspension need not be provided for therein.

The authorities state:

The suspension of a statute is the temporary displacement of a valid legislative enactment by the execution of a later statute which is to prevail during its limited operation. An act may expressly declare that during the time when it continues in effect, but only during that time, designated earlier legislation shall not be in force. Likewise, when a later statute, limited in time of operation, prescribes the controlling law while it is in force upon a subject previously controlled by a statute of permanent operation, a suspension is achieved by implication at the consummation of the later enactment . . .

[U]pon the termination of the suspending statute the statute which it displaced is revived without express reenactment. The revival may occur through the expiration of the suspensory act by express limitation in its terms, or by the termination of those conditions upon which the statute depends, thus requiring no additional action by the legislature to restore the suspended statute to effective operation. Likewise, where the legislature by a later enactment repeals the suspending act, a statute which had been suspended by the repealed act is reinstated without express reenactment. 1A SUTHERLAND STATUTORY CONSTRUCTION § 23.30 at 274-5 (4th ed. 1972).

See also, 82 C.J.S. Statutes § 304 (1953).

I am also enclosing for your information copies of two previous opinions of this Office which relate to the inquiry which you have made.

With kind regards,

Karen LeCraft Henderson
Senior Assistant Attorney General

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